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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,840	11/13/2003	Andrea Louise Guyon		4876

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,840

Applicant(s)

GUYON ET AL.

Examiner

Frank Vanaman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 8-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **Election/Restrictions**

1. Applicant's election without traverse of Invention I in the reply filed on Nov. 8, 2005 is acknowledged.
2. Applicant's election has also indicated "claim 18 is cancelled" although a complete amendment has not actually been presented. For expedience of examination, the remark is understood to constitute an instruction to cancel claim 18, and retain claims 1-17 as previously presented. Applicant may desire to consult 37 CFR 1.121 concerning the manner in which amendments are made in an application.
3. An office action on claims 1-17 follows.

### **Claim Objections**

4. Claims 11, 13 and 14 are objected to because of the following informalities: In claim 11, line 4, it appears as though "sleeves" should be - -sleeves'- -. Throughout claims 13 and 14, "chord" should be - -cord- - (see claim 13, lines 3, 4, 8, 9, 12, 14, 16; claim 14, line 1) in claim 14, line 2, it appears as though a word such as - -cord- - is missing after "tension". Appropriate correction is required.

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Riley (US 6,916,046, filed 8/21/2003). Riley et al. teach a guard for an in-line skate, having a plurality of rollers including first and last rollers, and a boot, the guard comprising an elongate body with a length; a front portion having a width (11), first and second (left

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and right) laterally spaced upwardly extending lugs (51, note figure 1) which define a space there-between; a rear portion (12) with a width (at front most portion of 12 - see figure 4) wider than a width (front most portion of 11) of the front portion; the rear portion including left and right laterally spaced lugs (52) which define a space there-between; and a center portion (60, 61) having a width (again, figure 4) approximately equal to the width of the front portion (at the front of 11), each of the front, rear and middle portions including a groove, the middle portion groove having a first section (top of 60, downward) with a first width, and a second portion (tapering inward, towards the bottom of 60) with a second width; the guard having a contact plane at an angle of approximately 45 degrees (front-bottom of 11), a contact plane having a slightly elevated angle (rearwardly on 11), a further contact plane having a slightly elevated angle (forward portions of 12) and a final contact plane having an angle of approximately 45 degrees (rearwardly on 12); the guard designed to optionally adapt to accommodate a brake spur (see col. 6, lines 17-24), the groove having two walls (one per side) each having an inner side, a top and an outer side; the groove terminating at front and rear ends with a curvilinear bight which match a front-most and rear-most wheel shape (note phantom wheels and guard cross section, figure 2B); wherein the groove depth is arranged in certain circumstances such that the top surfaces of the groove sides abut the skate frame (col. 4, line 66 through col. 5, line 4.).

### **Claim Rejections - 35 USC § 103**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley et al. (cited above) in view of Bunke (US 4,811,504). The reference to Riley et al. is discussed above and fails to teach the provision of a further central contact plane (corresponding to applicant's third plane) which is horizontal. Bunke teaches an

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attachment having five contact planes (see figures 2a, 2b, 2c): a first contact plane at approximately 45 degrees from horizontal; a second contact plane at a slightly elevated angle, a third horizontal contact plane; a fourth contact plane at a slightly elevated angle; and a fifth contact plane at approximately 45 degrees from horizontal. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a horizontal plane as taught by Bunke in the region of the central section (e.g., 60, 61) taught by Riley et al., for the purpose of supporting the user's foot adequately throughout a natural walking gait, as suggested by Bunke.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley et al. in view of Bunke and Schneider (US 5,522,621). The reference to Riley et al. as modified by Bunke is discussed above and fails to teach the walls of the groove being so made as to flex outward when the rollers are inserted, and wherein the groove include a first width and a second narrower width, with a beveled transition portion between the two widths. Schneider teaches the use of a skate guard made from a flexible material (abstract, lines 4-6) such as rubber, and including a wheel-engaging groove arrangement (cross section, figure 22) with a first width (105/123), a second width (107/119) being narrower, and a transition (bevel between 123, 119) there-between. It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the skate guard taught by Riley et al., as modified by Bunke, from a flexible material with a two-width groove, as suggested by Schneider, for the purpose of accommodating variations in the widths of skate wheels, so as to allow the guard to work with a greater number of different types of skates.

10. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunke (cited above in the rejection of claims 2-4). Bunke teaches a walking attachment (30) for a boot (15), which permits a wearer to walk on a walking surface, including a first contact plane adapted to contact a walking surface during a heel strike phase (rearwardly of the portion in contact with the surface at figure 2a, having a portion at approximately 45 degrees from horizontal); a second contact plane adapted to contact a surface during a transition between heel strike and flat foot phases (that portion in contact with the surface in figure 2a), a third contact plane adapted to contact

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a surface during a flat foot phase (that portion in contact with the surface in figure 2b); a fourth contact plane adapted to contact a surface during a transition between flat foot and toe-off phases (that portion in contact with the surface in figure 2c); and a fifth contact plane adapted to contact a surface during a toe off phase (that portion forwardly of the portion in contact with the surface in figure 2c; having a portion at approximately 45 degrees from the horizontal). The reference to Bunke, while teaching this structure for use with an attachment to a ski boot, fails to explicitly teach this sole structure as usable with an in-line skate guard. Inasmuch as the facilitation of a natural walking gait is deemed to be important by Bunke, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the attachment in a shape adapted to be attached to an in-line skate, for the purpose of facilitating a more natural walking gait for an in-line skate user, allowing a more natural walking motion.

#### **Allowable Subject Matter**

11. Claims 8-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11, 13 and 14 are additionally objected to for minor informalities as set forth in the "claim objections" section which would require correction before they would be in condition for allowance.

#### **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roosli (US 3,965,586), Smith et al. (US 5,573,275), Alléra (US 5,988,682), Winsor (US 6,079,747), Tsuji (US 6,260,289), Faber (DE 33 06 516 A1) Sperling (DE 296 15 917 U1) and Rädler (DE 297 10 633 U1) teach skate guards of pertinence.

13. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

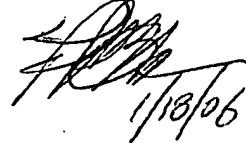
A response to this action should be mailed to:

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



Handwritten signature of F. Vanaman, dated 1/18/06.